

**Before the  
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION  
and  
RURAL UTILITIES SERVICE  
Washington, D.C. 20230**

In the Matter of	)	
	)	Docket 090309298-9299-01
Broadband Technologies Opportunities	)	
Program	)	

**Comments of The State of Missouri**

The Internet is the great leveler in the 21<sup>st</sup> century. Access to affordable broadband is the contemporary version of the all too familiar story in which the “haves” prevail over the “have-nots.” The American Recovery and Reinvestment Act (Recovery Act) provides a once in a lifetime opportunity to make affordable broadband available to disadvantaged and disenfranchised Americans whether they are “have-nots” due to geography, education or economics. Missouri is committed to doing everything in its power to ensure that Missourians have affordable access to reliable broadband, choice among providers, and the opportunity to help transform our economy and create new jobs with broadband expansion. Missouri offers the following comments from this perspective.

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## **A. Executive Summary:**

Section 6001 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) requires the National Telecommunications and Information Administration (NTIA), in consultation with the Federal Communications Commission (FCC), to establish the Broadband Technology Opportunities Program (BTOP).

The Recovery Act should be interpreted holistically, with each part contributing to the same end: to transform our economy and create new jobs. Accordingly, applicants should demonstrate how the proposed project will achieve these ends. The Recovery Act recognizes many separate but related means to these ends. Applicants should show how the Nation will benefit from the synergies that will arise from the project, such as a benefit to telemedicine from the applicant's broadband proposal. The Recovery Act is intended to stimulate innovation. Therefore, novel projects should be rewarded if they are likely to achieve the objectives despite being outside the norm. Innovation can come in many shapes and sizes. The role of the states is not clear. If a state attempts to do something new to help turn around the economy and create new jobs, then the state should be given an opportunity to be a partner in the transformation. In any event, there should be some opportunity for the states to help review, rank and prioritize applications in some way to ensure that approved projects comport with the state's broadband plans and goals. The Recovery Act does not provide clear standards for many important terms. These key terms should be defined in accordance with the Recovery Act itself. For example, "broadband" should be interpreted to mean symmetrical Internet service with minimum upload and download transfer speeds capable of realizing the vision for a 21<sup>st</sup> Century communications infrastructure for everyone in America. Finally, the NTIA and RUS should collaborate openly to ensure that each application is fully and fairly reviewed from every perspective to ensure the fulfillment of the Recovery Act's objectives.

## **B. NTIA Program:**

### **I. The Purposes of the Grant Program**

NTIA asks whether a certain percentage of grant funds should be apportioned to the various purposes of the Recovery Act. As an initial matter, NTIA should focus on proposals that sustainably deploy affordable broadband to unserved areas of the country. Further, NTIA should maximize the funding for the grant program by favoring applicants that aim to achieve as many of these purposes as possible with each application. Therefore, as opposed to seeking/receiving applications that simply purport to expand broadband in unserved areas, the applicant should, for instance, also explain how the project will provide education or training, promote awareness, improve public safety and stimulate demand in the unserved area. Each application would then be reviewed for its ability to effectively and efficiently address as many of these needs as possible.

NTIA also asks how the BTOP should leverage or respond to other broadband-related portions of the Recovery Act, including the USDA grants and loans program, smart grids, health information technology, education and transportation infrastructure. To the extent coordination is possible between NTIA, RUS, and other federal agencies, consideration should be given to projects that will improve health information technology, education (i.e., distance learning), the smart grid and transportation infrastructure. However, the main focus, given the expedited timeframe and limited funding, should be on deploying broadband technology to areas of the United States that are unserved. In other words, the focus should not be misplaced by efforts to leverage other portions of the Recovery Act since the various federal agencies will also be focused on the specifics of their respective programs.

Lastly, the proposals should be viewed as part of an overall scheme to develop a critical foundation infrastructure for the 21<sup>st</sup> Century. Will a particular proposal advance President Obama's vision for the 21<sup>st</sup> Century which is shared by Missouri Governor Nixon?

## II. The Role of the States

The Recovery Act provides that NTIA may consult with states, the District of Columbia, territories, and possessions (collectively, “state”) to identify areas within the state that are unserved or underserved and to address the allocation of grant funds within the state. NTIA seeks comment on the appropriate role for states. It will be very challenging for NTIA and RUS to review the anticipated thousands of applications that are anticipated, much less rank the proposals, disburse the funds, and monitor implementation. To ease this burden, NTIA and RUS should rely on assistance offered by a state. State agencies know their communications environment, geography, and demographics and have an incentive to ensure the money is efficiently and effectively targeted to areas of need. State governors should have the option to provide NTIA and RUS with a specific entity that will be available to review and rank all applications for projects within the state based on NTIA/RUS criteria. If a state submits its own application, however, then it should appoint a board or commission to review and rank other applications based on a set of published criteria that align with the State’s vision for broadband deployment. NTIA and RUS should make the final decision and disburse the funds after reviewing any state recommendation.

NTIA also seeks comment on how to consider state priorities in awarding grants and how to resolve differences among groups or constituencies within a state. As referenced above, state review and recommendation would be subject to NTIA/RUS established criteria. When the State of Missouri issues a Request for Proposal (RFP), bid responses are typically evaluated using both objective analysis and subjective judgment in conducting a comparative assessment of the proposals. The proposals are ranked by points being assigned to categories such as cost, experience, reliability and expertise of personnel and method of performance. The method of performance is a distinct, step-by-step plan for meeting the requirements of the RFP, which includes information that demonstrates the method or manner in which the bidder proposes to satisfy the requirements. Using a similar methodology, whereby NTIA and RUS establish specific criteria, with associated points assigned to each area, should make the selection process

objective rather than subjective, thus reducing the opportunity for dispute. Grants would be awarded based on an applicant's score that considers such factors as the applicant's ability to meet the purposes of the Recovery Act.

Finally, NTIA seeks input on how it should ensure that projects proposed by states are well-executed and produce meaningful, measurable results. One barometer for success is the extent to which applicants have made a significant investment in an existing broadband infrastructure, particularly those serving community anchor tenants such as schools, higher education, courts, libraries and healthcare. Accordingly, awarding grants to such applicants with a proven track record should be a federal priority. Once again, as long as NTIA and RUS establish objective criteria by which to rank applications, the results should be easily monitored. NTIA and RUS need to establish compliance assurance mechanisms to ensure grant recipients agree to the risk that will be undertaken. Such mechanisms should contain safeguards and checks, and should be structured to guarantee performance on penalty of disgorging awards for failing projects. When structuring these mechanisms, NTIA and RUS must remain cognizant of the fact that the "penalties" should not be structured so rigid as to deter potential applicants from even applying. The compliance assurances must also allow for circumstances beyond the grant recipient's control. Applicants should be required to submit specific plans as outlined throughout these comments. Once a grant is awarded, those plans and subsequent updates should be subject to review, scrutiny and disgorgement for any indefensible failure to meet those obligations.

### III. Eligible Grant Recipients

The Recovery Act identifies eligible applicants as a state or political subdivision, a nonprofit entity or any other entity found to be in the public interest. NTIA seeks standards to determine whether an entity meets a public interest test. First, it should be noted that "any other entity" is a broad category that could include broadband or service providers such as telecommunications providers, wireless providers, satellite providers, cable TV providers, so long as the "public interest" is served by the applicant's proposal. The extent to which a proposal would increase robust broadband penetration, be

affordable, sustainable and provide consumer choice are all relevant factors in determining the public interest. Therefore, the State of Missouri suggests the “public interest” test be deemed satisfied when an entity can achieve the foregoing and at least two purposes of the Recovery Act. In other words, an applicant that simply has a proposal to educate consumers on broadband would not be an entity in the public interest and should not be able to submit an application simply for that proposal. As another example, an application that purports to leverage stimulus money as compensation to carriers for backhaul or “the middle mile” would be scrutinized under the public interest standard. However, an entity that has a proposal to improve public safety while deploying broadband to an unserved area would be considered in the public interest, at least as far as being eligible to submit an application. Once an entity meets this initial “public interest” test, the application would then be subject to further scrutiny as described throughout the comments.

#### IV. Establishing Selection Criteria for Grant Awards

The Recovery Act directs NTIA to award grants that will deploy infrastructure that will increase affordability and subscribership to the greatest population of users; provide the greatest speed possible; enhance services for health care, education or children; and not result in unjust enrichment through another federal program. NTIA is also to consider whether the applicant is a socially and economically disadvantaged small business concern. In addition to these considerations, NTIA seeks comment on other factors that should be given priority in awarding grants.

The first priority should be given to those projects that expand broadband deployment to unserved areas – those areas that have either only satellite access or dial-up service. The application should demonstrate how the proposal will not only reach the unserved area, but also how it will address other purposes of the Recovery Act such as transformative social benefits like telehealth or telemedicine.

Expanding telehealth in Missouri and the Nation by extending the broadband network to all health areas and individual homes would transform health delivery, access, quality and costs. Telehealth connects patients and providers over distance with live-interactive videoconferencing combined with store-and-forward home monitoring technology. Telehealth increases access to timely healthcare, decreases travel and travel related costs, improves health outcomes and provides the opportunity for

education, training and research. Access challenges such as health disparities, remote geographical areas and lack of specialists can be addressed by telehealth.

Virtual house calls are made possible by broadband in the home with video and remote monitoring of patients. Children with special health care needs, people with chronic conditions and the aging population can all greatly benefit from this technology. Home health agencies reduce the length of stay and rehospitalizations by employing telehealth. Primary and specialty providers will more closely monitor their patients. The elderly population will be able to stay in their home longer while maintaining better communication with their health care providers. Investing in the deployment of existing technology will transform health care in Missouri and the Nation, and is perhaps the best example of how a broadband project would advance other Recovery Act purposes.

When submitting an application, the applicant should be required to address key points such as:

- 1) Describe the technology to be deployed.
- 2) Describe, in detail, the proposed project. (Specific project details to be included in the application are outlined below.)
- 3) Describe how the proposed project will not occur absent the stimulus.
- 4) Describe how the proposed project will remain sustainable once the stimulus is exhausted.
- 5) How will the proposal encourage the adoption of affordable broadband?
- 6) How will the proposed project address the needs of “unserved” or “underserved” areas?
- 7) What is the population of the area to be served by the proposed project?
- 8) What is the anticipated take rate in the area of the proposed project? How was the take rate determined?
- 9) Will the project increase broadband subscribership to the greatest population of users in the area? If yes, please quantify and explain.
- 10) Will the project increase broadband affordability to the greatest population of users in the area? If yes, please quantify and explain.
- 11) What social benefits will be provided to the area of the proposed project?
- 12) What upstream and downstream delivery speeds will be available based on the proposed project (not advertised speeds, but available speeds)?
- 13) Does the proposal provide open access/net neutrality and enhance customer choice?
- 14) If applicable, what effect, if any, will the stimulus have on applicant’s high cost universal service support?
- 15) Will the project leverage funds from another program under the Recovery Act? If so, please explain.
- 16) How will the project create and preserve job growth? Quantify and describe the number of new jobs that will be created by the project. Include in your description the projected average annual salary of each type of new job created as a result of the project.
- 17) Describe how the new broadband availability will be promoted to achieve adoption.

Specific project details to be included in an application:

In addition to the general items included above, an initial application should include specificity on the project and the applicant’s qualifications. The application should include at least a two-year plan, demonstrating that the stimulus money will be used to advance broadband in an unserved area. The plan should include a project timeline, with detailed milestones that can be reviewed as part of any quarterly

monitoring, a detailed map of coverage area before and after improvements, the specific geographic areas where improvements will be made, the project start and completion date, the estimated amount of public and private investment, the estimated population to have access to broadband and expected adoption rate and a statement as to how the proposed plan would not have occurred absent the grant award. The plan should also include details on attainable download and upload transfer speeds (not advertised bandwidths), proposed prices for affordable and sustainable service and an explanation as to why the proposal is in the public interest. The application should also contain a complete description of the applicant's qualifications, including evidence that the applicant has the financial, technical and managerial expertise to complete the project.

Requiring applicants and award recipients to provide common information will provide NTIA with the necessary tools to compare applications and ultimately measure the relative success of individual projects. Priority should be given to projects that effectively address several purposes of the Recovery Act, in addition to expanding broadband deployment to an unserved or underserved area. Priority should be given to those projects that create or stimulate job growth and demonstrate sustainability once stimulus money has been invested.

## V. Grant Mechanics

NTIA and RUS should make a portion of the funds available to allow state “re-granting” to complete a needed build-out, offer programs to increase computer literacy, and/or proposals that would otherwise help foster adoption. This flexibility will help applicants better secure the sustainable adoption of broadband. For example, a coupon for a reduced rate on 12 months of service (a la the DTV coupon program) or some other incentive might help skeptical customers try a more expensive service that provides better access and every opportunity that goes with it as an alternative to existing dial-up. Such programs would require sufficient metrics to demonstrate that they are reasonable expenditures consistent with the Recovery Act. A relative increase in adoption in an underserved area following such a program would be one way to show success.

In addition, grant dollars should be distributed to recipients in advance or in phases, versus a reimbursement model. A key consideration is whether a project would have been implemented but for the Recovery Act. If that is the case, it is unlikely that the applicant could “front” the money required for the project, particularly if the proposal is large or innovative.

## VI. Grants for Expanding Public Computer Center Capacity

Public computer center capacity is an important topic, and one that the State has supported for many years. The State has no comments at this time, however. The State does anticipate, however, that successful proposals will show an appreciable benefit to public computer centers and other community anchor institutions.

## VII. Grants for Innovative Programs to Encourage Sustainable Adoption of Broadband Service

A program that expands broadband deployment will not be successful unless the program encourages sustainable broadband adoption. NTIA asks what criteria should be established to encourage sustainable adoption and what measures should be used to determine whether such programs succeeded?

Some providers indicate that many of the areas that remain unserved do not present an economic business case for broadband deployment under current market conditions. Therefore, it is imperative that priority be given to innovative applications that include both a proposal to serve unserved areas and a plan to encourage sustainable adoption of affordable broadband. Broadband adoption rates vary by such things as socioeconomic status, location, education. According to the most recent Pew study<sup>1</sup>, the following examples represent the diversity among Americans with broadband access at home: 25 percent of low-income; 19 percent older than 65; 38 percent living in rural areas; 57 percent in urban areas and 60 percent in suburban areas. These figures demonstrate that it is not only important to encourage adoption in unserved areas, but also to bridge the digital divide by making affordable broadband available to all Americans, regardless of race, color, creed or income. The Recovery Act directs that no less than \$250,000,000 be awarded for grants that encourage sustainable adoption. NTIA should allocate a sufficient portion of the award to projects that reach unserved areas to ensure at least minimal adoption in these areas. The remaining allotment should be awarded to projects that target underserved populations, not underserved areas, to advance deployment to these groups. Based on the Pew study, it appears a goal of 50 percent adoption in all areas and among all groups would be a noteworthy and reasonably-achievable short-term goal.

#### VIII. Broadband Mapping

The Recovery Act directs NTIA to establish a comprehensive nationwide inventory map of existing broadband service capability and availability. NTIA asks questions about specific information and granularity that should be included in a map and asks what input, if any, states could provide to the mapping exercise.

The stimulus is designed to promote broadband deployment to unserved and underserved areas. To determine unserved or underserved areas, mapping of broadband availability may be helpful. Although the Recovery Act anticipates that stimulus money will be disbursed within the next few months,

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<sup>1</sup> See: <http://pewresearch.org/pubs/888/home-broadband-adoption-2008>.

NTIA and RUS may be better able to evaluate applications with knowledge of the location of existing broadband networks. Completed mapping should not be a condition precedent to awarding grants in a particular state. The existence of a map says nothing about the need or desire for affordable broadband in a given state.

State assistance should be solicited in this project to accelerate mapping efforts. In order to make the maps useful, all broadband providers must contribute information, regardless of technology or regulatory treatment. Therefore, the first step should be a mandate that all providers provide information on the location, actual speed and price of broadband service. The providers should be required to provide data at the street level in order to accurately display broadband accessibility. Methods that rely on such things as geographic location, propagation maps and distance may not provide the detail necessary to meet the goals of the Recovery Act. In addition to gathering information on broadband deployment, the mapping project guidelines should also require data on adoption rates. Finally, the broadband mapping project should not be limited to existing facilities, deployment or adoption, but should be interactive such that completion of new projects will continuously be updated on the map.

#### IX. Financial Contributions by Grant Applicants

NTIA seeks comment on what factors, if any, should be used to determine whether an applicant should receive a grant that is more or less than 80 percent federally funded. As a condition of grant award, an applicant should demonstrate the sustainability of a project. The innovative nature of a proposal, degree of public-private partnership, applicant track record, and business organization (i.e., non-profit) should be considered in deciding the funding level. The applicant's willingness to include in-kind or "sweat equity" contributions such as rights-of-way, materials or engineering should be counted towards the match. In addition, an applicant's reliance on previous work or ability to leverage other recent work to complete the proposed project also should be counted toward the match.

## X. Timely Completion of Proposals

The Recovery Act requires NTIA to disburse awards over approximately 18 months. NTIA seeks input on the most efficient, fair and effective way to meet this requirement and ensure projects are completed within two years of award. To best achieve these goals, the NTIA and RUS should give priority to state-endorsed proposals that identify agreed-to partnerships, show a strong public benefit, and have an existing broadband infrastructure investment that the proposal will leverage.

The Recovery Act requires grant recipients to provide quarterly reports on the recipient's use of funds and progress toward stated goals. An initial application should include at least a two-year plan, demonstrating with specificity that the stimulus money will be used to advance broadband in an unserved area. The plan should include a project timeline, with detailed milestones that can be reviewed as part of the quarterly monitoring, a map of coverage area before and after improvements, the specific geographic areas where improvements will be made, the project start and completion date, the estimated amount of public and private investment, the estimated population to have access to broadband, the expected adoption rate and a statement as to how the proposed plan would not have occurred absent the grant award. The plan should also include details on attainable download and upload transfer speeds (not advertised bandwidths), proposed prices for service and an explanation as to why the proposal is in the public interest. Since projects must be completed within two years from grant, in addition to the quarterly filings, the grant recipient should be required to annually provide a revised plan indicating the status of meeting original commitments and any reason the recipient may have missed milestones. Any lapse from the original timeline should be carefully scrutinized to determine if the failure is a result of poor technical, financial or managerial expertise or a product of the economic environment. If the lapse is legitimate, the grant recipient should be allowed to reasonably modify its plan. If the lapse is a result of an insufficient level of performance or inappropriate spending, NTIA should deobligate the funds.

## XI. Reporting and Deobligation

NTIA asks what criteria should be considered to determine an insufficient level of performance or wasteful or fraudulent spending. NTIA also seeks comment on what actions should be taken if negligent spending actions are detected. NTIA and RUS need to establish compliance assurance mechanisms to ensure grant recipients agree to the risk that will be undertaken. When structuring these mechanisms, NTIA and RUS must remain cognizant of the fact that the compliance assurances should not be structured so rigidly as to deter potential applicants from even applying and must allow the opportunity for a grant recipient to provide an explanation detailing the reasons behind its failure to meet commitments. If the explanation is satisfactory (i.e., evidence supports the circumstances are beyond the grant recipient's control), the grant recipient should be allowed an opportunity to modify its plan. If NTIA determines the actions are a result of negligence, an insufficient level of performance or wasteful or fraudulent spending, NTIA should deobligate the funds.

## XII. Coordination with USDA's Broadband Grant Program

NTIA and RUS should strive to make the application process similar for both programs, to the extent allowed by the Recovery Act. For example, ideally an entity should be able to use the same application with minimal modification for both programs or a single consolidated application that would be considered by both agencies. NTIA and RUS also should work together to provide a review and grants award process that is collaborative, comprehensive and seamless to maximize the vision of a 21<sup>st</sup> Century broadband infrastructure for all Americans.

## XIII. Definitions

The Conference Report on the Recovery Act states that NTIA should, in consultation with the FCC, define "unserved area", "underserved area" and "broadband". The Recovery Act also requires the NTIA and the FCC to publish nondiscrimination and network interconnection obligations that will, at a minimum adhere to the principles contained in the FCC's broadband policy statement. NTIA seeks input

on these various requirements. The State of Missouri offers the following definitions and obligations with the objectives of the Recovery Act in mind:

- A. Unserved area – Any area that is only served by satellite or only has access to dial-up service.
- B. Underserved area – Any area that has average upload and download speeds that are less than “broadband” speeds.
- C. Broadband – The State of Missouri recommends that “broadband” be defined with the objectives of the Recovery Act in mind. Accordingly, broadband should be defined as symmetrical Internet service which provides minimum download and upload transfer speeds capable of realizing the vision of a “21<sup>st</sup> Century communications infrastructure for everyone in America.”<sup>2</sup>

Mr. Siefert’s recent testimony, from which the above phrase was borrowed, is right on point. Mr. Seifert connected the transformational goals underlying the Recovery Act and the notion of “broadband” in his testimony. In recognition of the fact that the Recovery Act requires NTIA to consider whether an application will deliver the “greatest broadband speed possible to the greatest population of users in an area”, Mr. Seifert outlined his expectation that applications would seek bandwidth adequate to allow people who live in unserved and underserved areas.

We hope to see applications that propose to make broadband available for smart grid technology and health information technology applications. We want applications that will provide researchers and scientists at universities and other institutions the broadband connectivity they need to compete with the rest of the world.<sup>3</sup>

Essentially, Mr. Seifert is saying – and the State agrees completely – that the vision for a 21<sup>st</sup> Century broadband infrastructure requires the circuit capacity to permit 21<sup>st</sup> Century applications. Rather than set a numerical floor or ceiling, it is appropriate to be more flexible and recognize that some applications require more bandwidth than others, and the appropriate capacity will be determined by the applicants and the 21<sup>st</sup> Century consumer.

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<sup>2</sup> Testimony of Mark G. Seifert Before the Subcommittee on Communications, Technology, and the Internet, Committee on Energy and Commerce, U.S. House of Representatives, April 2, 2009.

<sup>3</sup> *Id.*

In contrast, last year the FCC created several reporting tiers applicable to both download and upload transfer speeds. The tiers ranged from first generation at 200 kbps to 768 kbps; basic broadband at 768 kbps to 1.5 mbps; broadband tier 2 at 1.5 mbps to 3 mbps; through tier 7 at 6 mbps and above. The State of Missouri does not agree with the FCC's conclusions or tier classifications. In a footnote to its order, the FCC stated, "For many consumers and businesses, the 200 kbps capability is more than sufficient to meet their current needs, which often consists of basic e-mail use, access to general information (e.g. government websites and news) and the transmission of standard digital media such as pictures and documents."<sup>4</sup> The FCC found it appropriate to continue to evaluate broadband deployment by monitoring migration of customers and services to higher speed tiers by collecting additional information. While it is appropriate that the FCC has recognized the need to monitor multiple transfer speeds, maintaining, or at least positing, that a minimum speed of 200 kbps is acceptable sends a signal that is contrary to the Recovery Act and the vision for a 21<sup>st</sup> Century infrastructure for everyone in America. Missouri cannot support such a transfer speed because it clearly would not support 21<sup>st</sup> Century applications.

In addition, dark fiber that will be installed and not immediately lit with optical equipment, but capable of being put to use coincident with demand, should be considered broadband infrastructure even if it is "fiber-banked" following construction to meet future demand.

- D. Nondiscrimination and network interconnection obligations – In order to ensure consumer choice, there needs to be a clear directive from the FCC that all entities will be required to negotiate in good faith to meet the goals of Congress and the Recovery Act in such limited timeframes.

Congress established nondiscrimination and network interconnection obligations for telecommunications service providers with Title I of the Telecommunications Act of 1996. Many of these principles should be applicable to broadband deployment under the Recovery Act. However, as history has demonstrated,

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<sup>4</sup> Report and Order and Further Notice of Proposed Rulemaking. *In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*. WC Docket No. 07-38. fn 65.

providers spend many months and years negotiating and arbitrating the conditions of nondiscriminatory access to networks and network interconnection obligations. This places potential grant recipients in a precarious position whereby they may have all the qualities necessary to meet the requirements of the Recovery Act, yet they are stifled by long-term negotiations with telecommunications and cable providers to gain access to the consumer. The very entities that may need to negotiate could be competitors for the same grant money, or may not have an interest in receiving grant money at all. NTIA asks if failure to comply with nondiscrimination and network interconnection obligations should result in deobligation of fund awards. Since the failure to comply may not be the fault of the grant applicant or recipient, the “penalty” should not only be tied to deobligation of funds. If the award recipient is creating the obstacle to compliance, the funds should be deobligated or repaid. However, if the obstacle is being created by a non-grant related party to the negotiations, a penalty should be applied for failure to negotiate in good faith.

#### XIV. Measuring the Success of the BTOP

NTIA asks what metrics and information should be reported to measure the success of the Broadband Technology Opportunity Program. As stated under Section VIII, Timely Completion of Proposals, each grant recipient should be required to provide quarterly reports on its use of funds and progress toward stated goals. A grant recipient’s quarterly report should document the entity’s compliance in meeting its commitments and its efforts to complete the project within the timeline and budget outlined in the application. For instance, if the application indicated the project, if approved, would generate certain broadband speeds, create a certain number of jobs, increase broadband affordability, and so on, then the entity’s quarterly report should document how it is meeting those commitments. Likewise the grant recipient should be subjected to independent audits verifying the information contained in these quarterly reports and the entity’s progress toward meeting its goals. To ensure transparency, all quarterly reports should be accessible to the general public through NTIA’s website or a state portal.

Since projects must be completed within two years from grant award, in addition to the quarterly filings, the grant recipient should be required to annually provide a revised plan updating the status of original commitments identified in its application, indicating any reason the recipient may have missed milestones and the recipient's plan to persevere. Requiring applicants and award recipients to provide common information will provide NTIA with the necessary tools to measure the relative success of individual projects.

**C. RUS Program:**

The comments submitted on the NTIA stimulus program should also apply to the RUS program. In Missouri's view, to fully realize the promise of the Recovery Act, these two programs should collaborate at every opportunity. Many proposals likely will have both middle mile and last mile components that NTIA and RUS could independently support if they work closely together and review each application cooperatively. A seamless approach by the two agencies will yield a far better result for the Nation than independent reviews conducted in separate bunkers.

The RUS program provides the best opportunity to fund affordable last mile components of proposals, and encourage adoption in difficult-to-penetrate markets with computer literacy programs, and by promoting or incentivizing consumer choice. In markets that are unserved or underserved due to geography or customer base, those proposals that are likely to serve the highest proportion of unserved or underserved rural residents relative to adoption rates in more lucrative markets should be favored. In short, those applicants that suggest innovative and creative ways to offer affordable broadband to a smaller customer base should be rewarded, rather than punished by a relatively low adoption rate or forecasted return. The RUS should give creative, transformative proposals a chance to benefit rural America.

Missouri is strategically positioned in metropolitan communities to stimulate job creation through revenue generation and capital investment with its focus on small business development and entrepreneurial ventures. Currently, fiber-optic cabling is virtually standard throughout Missouri schools

and libraries and will eventually become the backbone to communities. The experience the State has gained from individuals, businesses, and communities through public testimony indicates that the demand for high-speed broadband Internet services will grow exponentially as broadband is deployed to all corners of rural Missouri; thus, leveling the playing field with metropolitan communities around Missouri, the Nation and the world.

Testimony received through public hearings has reinforced the “last mile” need for broadband Internet services in attracting and retaining businesses in rural Missouri. The success of rural Missouri businesses depends on sufficient Internet access to maintain a competitive advantage in the marketplace. Likewise, elementary and secondary students must have similar access to Internet services and applications at their rural homes as they have become accustomed to in the schools in order to be adequately prepared for higher education. To transform rural Missouri along with the rest of the state and the Nation, turn our economy around and create new jobs, a comprehensive last-mile program to deliver affordable broadband must be developed and fully implemented as swiftly as possible.

#### **D. Conclusion**

In summary, in implementing the Recovery Act, NTIA and RUS should strive to develop a unified, collaborative, and comprehensive application process. Potential applicants must be required to submit comprehensive plans and proposals that will achieve as many of the goals of the Recovery Act as practicable. Quarterly reporting, annual updates, audits and compliance assurance guarantees should be established to ensure grant recipients meet their commitments and to provide the necessary benchmarks to ultimately measure the success of the Broadband Technology Opportunities Program.

Respectfully submitted,

/s/ William J. Bryan

William J. Bryan  
Chief Information Officer  
State of Missouri  
301 W. High St.  
Room 280  
Jefferson City, MO 65101  
573-526-7746  
[William.Bryan@oa.mo.gov](mailto:William.Bryan@oa.mo.gov)